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7 Attorney for Defendants
8 Larry Nolan, Garry Birch, Jason Sage Sally Wilson,
9 Richard Brockie, Timothy O'Hara, & Fremont Freewheelers Bicycle Club
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11 UNITED STATES DISTRICT COURT
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13 NORTHERN DISTRICT OF CALIFORNIA
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15 SAN FRANCISCO DIVISION
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17 CORNEALIUS LOPES,

18 Plaintiff,

19 Vs.

20 FREEMONT FREEWHEELERS, et al.,

21 Defendants.
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Case No.: C 07-6213 PJH

[PROPOSED] ORDER GRANTING
DEFENDANTS' SALLY WILSON,
RICHARD BROCKIE, TIMOTHY
O'HARA, AND FREMONT
FREEWHEELERS BICYCLE CLUB'S
MOTION TO DISMISS THE
COMPLAINT PURSUANT TO RULE
12(b)(5) & (6)

Date: July 9, 2008

Time: 9:00am

Dept.: Courtroom 3, 17th Floor

Judge: Phyllis J. Hamilton

23 Defendants SALLY WILSON, RICHARD BROCKIE, TIMOTHY O'HARA, and
24 FREMONT FREEWHEELERS BICYCLE CLUB'S Motion to Dismiss this action as to
25 them came on regularly for hearing on Wednesday, July 9, 2008 in the above-entitled
26 court. The Honorable Phyllis J. Hamilton presiding. Defendants Sally Wilson, Richard
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1 Brockie, Timothy O'Hara, & Fremont Freewheelers Bicycle Club were represented by
2 their attorney Mark P. Meuser. Plaintiff Cornealius Lopes represented himself.

3 After considering the papers in support of the opposing defendants' motion and
4 those matters of which defendants requested judicial notice and the oral arguments at the
5 hearing, and Good Cause appearing, defendants' motion to dismiss is granted.

6 Defendants Sally Wilson, Richard Brockie, Timothy O'Hara and Fremont Freewheelers
7 Bicycle Club were not properly served and since the time to serve the Defendants has
8 expired, Defendants are dismissed from this action. Furthermore The counts alleged
9 against the various defendants are barred by the applicable statute of limitations, plaintiff
10 failed to state a cause of action upon which relief could be granted, and as to Defendant
11 Fremont Freewheelers Bicycle Club, the doctrine of Res Judicata precluded this action
12 from being filed against it.

13 Accordingly, plaintiff's complaint is dismissed as to defendants Sally Wilson,
14 Richard Brockie, Timothy O'Hara, & Fremont Freewheelers Bicycle Club.

15 Dated: July ____, 2008

16 by: _____
17 Phyllis J. Hamilton
18 United States District Judge
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